

**SUBJECT:** Homestead property tax exemption for temporarily unoccupied residences

**COMMITTEE:** Local Government Ways and Means — favorable, without amendment

**VOTE:** 5 ayes — Hill, Hegar, Laubenberg, Puente, Quintanilla  
0 nays  
2 absent — McReynolds, Mowery

**WITNESSES:** For — Karen Rhodes, City of Plano  
Against — None  
On — Richard Petree, Texas Association of Appraisal Districts

**BACKGROUND:** Under Texas Constitution, Art. 8, Sec. 1-a, an adult or family is entitled to an exemption from taxation of \$3,000 of the assessed value of a single residence homestead, i.e., the principal residence owned and occupied by that person or family.

Ch. 11 of the Tax Code relates to taxable property and exemptions, and sec. 11.13, enacted by the 66th Legislature in 1979, governs residence homestead exemptions. Under sec. 11.13(1), a temporarily unoccupied residence does not lose its character as a residence homestead if the owner intends to return and occupy the structure once again as the principal residence.

**DIGEST:** HB 1223 would amend Tax Code, sec. 11.13(1) to outline criteria under which a temporarily unoccupied residence still would qualify as a residence homestead. Instead of requiring intent by the owner to return and occupy the structure as the principal residence, HB 1223 would limit the absence to a period of less than one year. It also would grant an exemption for an absence caused by:

- military service outside the country, either in the armed forces of the United States or of this state; or

- residency in a facility that provided services related to health, infirmity, or aging.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

HB 1223 would amend the Tax Code to prevent property tax abuse by absentee owners while providing clear standards to protect owners from losing homestead exemptions because of legitimate temporary absences.

The practice of granting homestead exemptions is designed to shift a portion of the property tax burden from owner-occupied residential property to income-producing property, including residential rental property. The law, however, contains a loophole that permits some owners of residential rental property to qualify for homestead exemptions. Since the law does not limit a temporary absence, the provision relating to an unoccupied residence has emboldened some homeowners to retain their former residences as rental property and maintain their homestead exemptions merely by asserting an intention to reoccupy the property. This leaves other homeowners, including senior citizens and other individuals on fixed incomes who can ill afford it, to shoulder a disproportionate share of the property tax burden, while more affluent homeowners convert their initially declared homesteads to income-producing rental status. HB 1223 would end this practice by limiting the absence of a homeowner to one year, unless the homeowner had a valid reason to be away longer.

An example of the injustice that HB 1223 seeks to correct is illustrated by a recent audit of residential properties conducted by the city of Plano. As a result, the city discovered evidence of questionable homestead exemptions for nearly 3,500 homes, including cases in which, for example, the property owner's name was different than the name of the person responsible for paying utility charges. Calculating the value of the homestead exemptions and applying the city's tax rate against the total value of these properties revealed approximately \$400,000 in annual lost tax revenue. Since some of these exemptions likely were legitimate, a conservative estimate would place the lost revenue at no less than \$200,000. This situation likely exists, to some degree, in every tax jurisdiction.

While this bill would be effective in reducing property tax fraud, it would not penalize property owners who had legitimate reasons to be away from their principal residences for extended periods of time, including those engaged in overseas military service, and those who required long-term care in a hospital or nursing home.

**OPPONENTS  
SAY:**

While current abuses might cause valid concerns about restricting the homestead exemption for an unoccupied residence, HB 1223 would be too confining. Taxpayers have other legitimate reasons for being away from their principal residences for more than a year such as being on sabbatical, working temporarily out-of-state or overseas, undertaking a prolonged remodeling of the residence, or caring for a sick relative.

In addition, the exception in the bill for residency in a facility that provided services related to health, infirmity, or aging would be too restrictive. By using the word “facility,” this bill would not protect an aging or infirm homeowner who lived in a relative’s home for more than a year. Also, the provision regarding absence due to military service should not be limited to service outside the United States. The one-year time limit in this bill should be expanded, or additional reasons for not occupying a permanent residence should be included, or both.

**NOTES:**

The author plans to offer a floor amendment that would qualify an absence of less than one year by specifying that the owner intended to return and occupy the structure as the owner’s principal residence.